IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1382/06

Ganesh Dilip Patil .....Applicant

V/s.

The state of Maharashtra .... Respondent

Shri.U.P. Warunjikar Adv. for the applicant.
Miss.S.V. Gajre APP for the State.

CORAM : V.M. KANADE, J.
DATE : 10/04/06

P.C:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for anticipatory bail. The applicant has an apprehension that he is likely to be arrested in connection with C.R.No.44/2006 registered with Hinjwadi Police Station for the offence punishable U/s.392 r/w 34 IPC.

3. It is the case of the prosecution that one Kumar Giri had filed a complaint alleging that after having dinner with a friend, complainant went to the

toilet and came back near the open space in front of the hotel. At that time three persons got down from the Autorickshaw and forcibly took his mobile phone and cash of Rs.48,000/-. During the course of investigation, it transpired that present applicant was close to one of accused and police interrogated the applicant on number of occasions. It is submitted by learned Counsel for the applicant that name of present applicant is not mentioned in F.I.R. or in the remand application. However, no role has been assigned to the present applicant. It is submitted that without recording any finding Sessions Judge rejected the application for anticipatory bail. It is submitted that custodial interrogation of the applicant is not necessary. Further, it is delay in filing F.I.R. which is not explained. It is, further submitted that investigation is over. Stolen goods are recovered and five accused have been arrested.

4. It is not possible to accept the submissions made by the learned Counsel for the applicant. It is possible that during the course of investigation and interrogation of the co-accused, name of the present accused may have been taken by other accused. Though

the statement of the co-accused is not admissible in evidence, said statement is relevant for the purpose of investigation. Considering the nature of offence and material which is on record, in my view, this is not a fit case for grant of anticipatory bail. In the result, the application for anticipatory bail is rejected.

5. Trial court shall not be influenced by any observations made by this court while rejecting anticipatory bail and if application for regular bail is filed by the applicant, same shall be considered on merits and in accordance with law.

6. With these directions, the application is accordingly disposed of.

V.M. KANADE, J.